

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA

v.

ANTONIO LEVON LITTLES,

Defendant.

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1:13-CR-115

**MEMORANDUM OPINION AND ORDER**

Catherine C. Eagles, District Judge.

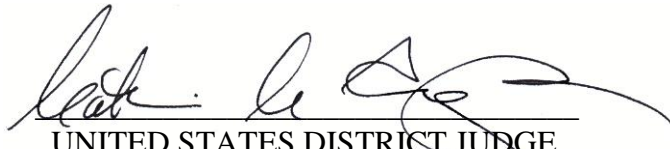
This matter is before the Court on an *ex parte* motion filed under seal by the government. (Doc. 15.) The government asks the Court to review certain materials *in camera* to determine if they are *Brady* or *Giglio* material. *See Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972).

The Fourth Circuit has noted that “it would be the prosecutor’s obligation to submit any material to the district court *in camera* if he had any doubts about whether it might be exculpatory.” *United States v. Holmes*, 722 F.2d 37, 41 (4th Cir. 1983); *see also United States v. Agurs*, 427 U.S. 97, 106 (1976) (noting that “if a substantial basis for claiming materiality exists, it is reasonable to require the prosecutor to respond either by furnishing the information or by submitting the problem to the trial judge.”) While the mechanics of such a process are not completely clear, it appears that generally the public and the defendant should be given notice of a request for *in camera* review. *See Application of Storer Commc’ns, Inc.*, 828 F.2d 330, 335 (6th Cir. 1987) (“[D]efense counsel and the public should have notice of the *in camera* proceedings.”); *see also United States v. Sekandary*, 944 F.2d 903 (table), 1991 WL 188228, at

\*1 (4th Cir. September 25, 1991) (noting government filed a notice of motion *for in camera* inspection); *United States v. Puranda*, No. 12-CR-433 (M.D.N.C. Apr. 18, 2013) (minute entry reflecting that government's *ex parte* sealed motion was discussed during a court hearing at which all parties were present.). Rule 16(d) of the Federal Rules of Criminal Procedure may also provide an appropriate vehicle. *See United States v. Lindh*, 2002 WL 1974284, at \*1 (E.D. Va. June 17, 2002).

This Order will serve as notice to the defendant and to the public of the government's motion. As this case is already set for status conference or plea on February 27, 2014, the Court will take the matter up with the parties at that time. At a minimum, the parties should be prepared to address whether the defendant is entitled to further details about the government's motion, the standard the Court should apply, and what kind of evidentiary context the Court needs to evaluate the motion. *See Holmes*, 722 F.2d at 41 ("The district court . . . generally does not know the government's theory of the prosecution nor what possible defense might be available to defendants.").

This the 25th day of February, 2014.



UNITED STATES DISTRICT JUDGE